IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER ST.NO.38043 OF 2002

Laxman Dadu Kamble & Another ...Appellants

Vs.

Prakash S/o Laxman Kamble & Ors. ...Respondents

Mr.N.J.Patil for the Appellants.

CORAM: A.S.OKA, J.

DATED: JANUARY 11, 2005.

P.C.:

1. Heard Shri Patil for the Appellants. The challenge in this Appeal is to the Judgment and Order dated 24th January 2001 passed by the learned Trial Judge on application for temporary injunction at Exh.5. By the said order the Appellants have been restrained from alienating the suit property till the final disposal of the suit. Shri Patil, learned Counsel for the Appellants submitted that as the suit itself was not maintainable, there was no question of granting any interim relief to the original Plaintiff.

2. I have considered the submission of Shri Patil. The suit is for partition and separate possession. During the pendency of the suit the Appellants-original Defendants have been restrained from creating any third party interests. The order is operating against the Appellants from 24th January

2001. The order of the learned Judge is a discretionary order. There is no perversity in the said order.

3. There is no merit in the Appeal. Appeal is dismissed with no order as to costs.

4. It is obvious that the findings which are recorded by the learned Judge while passing the impugned order are only tentative findings recorded for limited purpose of granting interim relief and the said observations are not naturally binding while deciding the suit.

5. Liberty to apply for expeditious hearing of the suit.

Judge.